



The State Bar of California

Task Force on Access Through Innovation of Legal Services – Subcommittee on Unauthorized Practice of Law and Artificial Intelligence

To: Subcommittee on Unauthorized Practice of Law and Artificial Intelligence
From: Joshua Walker
Date: June 16, 2019
Re: B.1. Recommendation: Regulated entities should not be limited or restrained by any concept or definition of “artificial intelligence.”

Recommendation not yet voted on by the Subcommittee or Task Force: Regulated entities should not be limited or restrained by any concept or definition of “artificial intelligence.” Instead, regulated entities should be limited by the concept of “legal technology”, which is defined as a technologically mediated solution (i.e., entailing substantial use of software-data platforms) that embodies the traditional analytic function, understanding, and/or insight of an expert attorney or member of the judiciary. This may include the technologically mediated application of law to a specific case.

How the Recommendation Relates to the Charter: This recommendation addresses Task 1 of the Charter.

- 1) Review the current consumer protection purposes of the prohibitions against unauthorized practice of law (UPL) as well as the impact of those prohibitions on access to legal services with the goal of identifying potential changes that might increase access while also protecting the public. In addition, assess the impact of the current definition of the practice of law on the use of artificial intelligence and other technology driven delivery systems, including online consumer self-help legal research and information services, matching services, document production and dispute resolution;

Pros: Artificial Intelligence “AI” is a rapidly evolving field without a specific definition or delineation. The term “AI” is often used as an umbrella/placeholder term in common usage further blurring its meaning. AI-driven systems may also incorporate human input or judgement. Defining AI for the recommendations could lead to unclear applicability as new technologies emerge and evolve. There is no logical reason to exclude technology solutions that may not be “AI driven.”

Cons: The limitation based on “legal technology” is vague, both in scope and in terms of the degree of technology/data required for qualification.